

City of La Verkin

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www.laverkin.org

La Verkin City Council Meeting Minutes

Wednesday, March 4, 2015 6:00 p.m.

Council Chambers, 111 S. Main, LaVerkin, Utah

Present: Mayor Kerry Gubler; Council-Members: Richard Hirschi, Ken Hooten, Randy Reeve, and Chantelle Browning; Staff: Kyle Gubler, Derek Imlay, Kevin Bennett, Chief Ben Lee, and Christy Ballard; Public: Chief Tom Kuhlmann, Blair Gubler, John & Rose Valenti, Ray Justice, Judy Abraham, Joseph Harper, Josh Langston, Shannon Wastling, Karl & Jeanette Benson, Anna Andregg, and James Blackmore.

Councilman Brandon Stephenson and Troylinn Benson have been excused.

A. Called to Order – Invocation and the Pledge of Allegiance was given by Derek Imlay at 6:00 pm.

B. Consent Agenda: (Items on the consent agenda may not require discussion. These items will be a single motion unless removed at the request of the Mayor or City Council.)

1. Declarations of conflict of interest
2. Amended Agenda
3. Minutes:
4. Review Invoices and Checks: \$152,529.41

Motion was made by Councilman Richard Hirschi to approve the consent agenda as written including the checks and invoices in the amount of \$152,529.41, second by Councilman Ken Hooten. Roll Call Vote: Reeve-yes, Hooten-yes, Browning-yes. Hirschi-yes, Motion carried unanimously.

C. Committee Reports:

Mayor Gubler announced Councilman Brandon Stephenson will be moving and will not be serving on the City Council. Once he turns in his written resignation, we will start the process of replacing him.

1. Planning Commission-Councilman Hirschi reported there has not been a meeting.
2. Water Board- Mayor Gubler reported the irrigation water will be coming in as soon as the turbidity has gone down.
3. Sewer Board-Blair reported nitrates and the density of septic tanks were discussed again. The division of Water Quality is checking over the figures. He thinks this will be on the agenda for the next several months.
The Grandpa's Pond Project has been started. Everything else discussed were minor issues.
4. Fire District-Chief Kuhlmann reported they average 6 calls a day with 2 full time employees on each day. Last week was extremely busy with the two house fires in the Valley. Chief discussed the process for how they prioritize what fire gets put out first, the response time to each of those fires and thanked the full time and volunteer fire fighters for all they do.
If any of the citizens are interested in volunteering for the fire department, they recruit every two years.

Councilwoman Browning asked the response time for the different agencies that assist the Hurricane Valley Fire Department.

Chief replied Hilldale, Washington, and Leeds will respond to our fires and it takes 23-38 minutes for them to get here.

Councilman Hirschi thanked the Fire District, full time and part time employees, for all they do.

5. Community Garden-Councilman Hirschi reported Mr. Wiser will till the ground as soon as it dries out.

D. Citizen Comment & Request for Future Agenda Items:

Judy Abraham-Is a citizen of La Verkin. She thanked Chief Lee and his deputies for all of the work they do. They are very busy with only 5 deputies. We all know the problem La Verkin has with drugs. It concerns her that people are arrested, get out of jail, and come back and do the same thing. There must be something we can do as citizens and as the City to curb that. She thinks requiring the people who have rentals in La Verkin to have a business license could give the City more power. As a person who has a rental in this community, she would be more than willing to get a business license. It is a tax deduction. It would help the community. The problem has been put on the shelf for too long. When you see things in the paper and hear things, it is a concern. She would like the City Council look into the business license idea if possible. It would give the City and the Police Chief more things they could do to keep these people out of our City.

She also wondered if the Sunset View Estates subdivision is still moving forward.

Joseph Harper-Is a homebuilder that recently bought four building lots in Zion View Estates. He is just in the process of finishing two of those homes. Last week he had a conversation with an appraiser who was appraising the home right next to one of his. The home was under contract and both the buyer and builder were pleased with the price. He was fishing for information on square foot value, upgrade, comps when he was blatantly told by the appraiser that no home would appraise for more than \$200,000 in that subdivision. He explained he was doing quite a few upgrades to his home and the appraiser asked him why he would do that stating it was just wasted money. It was a modular based subdivision and nothing he did could raise the value of his home. The appraiser was there to do an appraisal on a home under contract for \$215,000; he appraised the home at \$198,500. What is problematic with that appraisal is that the same home was built at Trail Ridge, in Toquerville and it appraised at \$255,000. If it was built in Hurricane in a new subdivision it would appraise for \$260,000. The appraisals in the towns on either side of La Verkin are 20-25% higher than La Verkin. He chose to build in La Verkin because he sees how La Verkin is in a prime position to cater to many different future residents. That appraisal of \$198,000 on a home that essentially sold for \$215,000 is indicative of a view by appraisers and financial institutions that La Verkin is a lower class town. He does not believe that to be the case. He has talked with a number of homeowners and fellow builders that all agree, the systematic devaluation of La Verkin homes is problematic and needs to be addressed. If not, the City may well lose the quality builders and future residents that could help this City.

Josh Langston-He is an owner of Cross Fit Blackridge. They are grateful to be in La Verkin and feel they add a lot of value to the City and bring a lot of people into it. He knows there have been complaints made about the noise ordinance. Recently they have subleased the section closest to the homes out for storage that before was used for group workouts and would have had loud music at points. Never out of the time constraints of the noise ordinance. They are out of the building usually by 7pm. It seems to be the morning time that complaints are being made. He knows the noise ordinance states nothing before 6am and they do keep the doors closed until at least that time. Chief Lee has been over before and listened from the parking lot and didn't have any concerns. He is willing to listen to complaints but at the same time it's part of what they do.

He wanted the Councilmembers to know that he is willing to work with them in addressing any concerns.

Jeanette Benson-Is a citizen of La Verkin. She represents 60 families that are part of a neighborhood watch. They would like to thank the City for putting up their signs, and the police department for all of the work they are doing. They are concerned with the amount of crime here in La Verkin. It does affect everyone who has an investment here. She has heard it been said that La Verkin is the armpit of Washington County and that upsets her. She thinks we need to look at why the value of property is down and why the criminals are attracted to La Verkin. She feels it's a big issue that needs to be looked at, possibly looking at other cities to see how they are handling it. Can we get rid of the slumlords that let these type of people come into the community. There is one address on Main Street that has had 10 arrests in the last week that were listed in the paper. Her elderly mother is terrified. The neighborhood watch group is willing to do what they can to help with this issue. La Verkin is a wonderful place and they would like it to attract wonderful people.

She gave the address and name of the owner of the house on Main Street. She would like to get the landlords to take some responsibility.

She thanked the Council for listening and is hoping we can all work together to take care of the issue.

E. Business:

1. Discussion and possible action to approve the proposed Rock Fall Berm Easement, Utility Easement, and Temporary Construction Easement Agreement (America Federal Credit Union / Sunset View Estates Development), and to authorize the Mayor's signature thereon.

Motion was made by Councilman Richard Hirschi to approve the proposed Rock Fall Berm Easement, Utility Easement, and Temporary Construction Easement Agreement with America Federal Credit Union/Sunset View Estates Development, and to authorize the Mayor's signature thereon, second by Councilman Ken Hooten.

Reeve-yes, Hooten-yes, Hirschi-yes, Browning-yes. Motion carried unanimously.

2. Annual Training on Open and Public Meetings Act (OPMA) and Government Records Access and Management Act (GRAMA) for members of the City's public bodies (including but not limited to the City Council, Planning Commission, and Board of Adjustment), as required by law.

Mayor Gubler explained this training is required by law to be given annually.

Kevin has given this training the last several years and decided to "mix it up" this year. An attorney for the League of Cities and Towns that also represents a number of cities in the State of Utah gave this presentation about five months ago and that is what we will be watching.

The Open Public Meetings Act and the Government Records Access and Management Act are basically Utah's version of the Freedom of Information Act and Privacy Act. They address how to take care of records and how to conduct the City's business in the public eye.

Councilmembers, Staff, Board and Committee members were given handouts of the presentation for both trainings. See attached handouts for training information.

Video presentation.

Councilwoman Browning asked if La Verkin City has the ability to use electronic participation.

Kevin replied we do have the ability. Staff needs advance notice because we are required to advertise when someone is attending the meeting electronically and so we have the appropriate equipment ready to go. On the Councilmembers end, they need to make sure they have the capability to communicate and hear well and that they are in a quiet location. If the meeting adjourns to a closed session, it needs to be closed on the other end as well.

Kyle mentioned we have had varying experiences with it. There have been times when the phone system has been problematic. There is also the question of whether or not the Councilmember is truly alone during a closed session.

Kevin explained the Ordinance is not set up where the entire Council can be absent.

Councilwoman Browning asked if it would be possible to change the Ordinance to make it possible, in case of an emergency.

Kevin didn't think it was possible, he would have to check the Ordinance. Many things can happen during a crisis. The cell phones are usually one of the first things to go. Procedural rules are another.

F. Staff. Mayor & Council Reports:

City Administrator- Kyle Gubler

Kyle emailed his report to the Councilmembers.

April 4th at 9am will be the annual Easter Egg Hunt. He is in the process of finding someone to be in charge of that his year.

Saturday night was the Miss La Verkin pageant. He will be meeting with the girls and their parents tomorrow and will set up a time for them to come to City Council.

Beautification Committee discussed; Fourth Grade Foresters will be on April 30th, and the fifth graders will be white washing the "L" on May 8th. Dumpster Days will be April 24 & 25. They also discussed possible candidates for the Citizenship Award. Those names will be coming to the City Council in April. Kyle has started working on the 2015-2016 FY Budget with the Staff. If the Councilmembers are interested, he could meet with them, two at a time, on March 11 or 12 after 5pm or by appointment on any other day.

The Water Board met last week. One of the items discussed was combining the Water Fund and the Irrigation Fund. Pelorus is the accounting software firm we use and they have been suggesting we do this for several years. It has been kept separate up to this point because the La Verkin Canal Company had money in savings they wanted used for only the irrigation system. That money has all been used now. Our auditor contacted the State Auditor and was told there is no problem if the City decided to do that. It will make the accounting easier for the City if we combine the two. The monies will remain separate. There will still be revenues and expenditures for culinary water and revenues and expenditures for secondary water (irrigation). It will basically eliminate one of our enterprise funds. The auditor pointed out people may think staff is trying to hide something but didn't think it would be a big issue.

The auditor has also told the City that we need to consider a rate increase for our secondary water system. If the funds are combined, it will give the impression that the Irrigation Fund is okay, when in all actuality it isn't.

This item will come before the City Council in resolution form if staff decides to move forward with it. Kyle went over the steps for filling a vacancy seat once a Councilmember has resigned. In this case, the person would finish out 2015. The governing body has 30 days to fill the vacancy.

Councilwoman Browning asked if the auditor gave a suggested rate increase.

Kyle replied that is determined by a study that has already been done by the City Engineer. Kyle was not sure of the amount.

Kevin found the answer to Councilwoman Browning's previous question. There needs to be at least one elected official at the Council Chambers to have electronic participation and staff needs 48-hour notice.

Mayor Gubler mentioned, concerning the rate increase, the irrigation has expended all of the funds from the account and the repairs are costing more than we are bringing in. Councilman Stephenson is the Chair Pro Tem; after he resigns, we will need to elect a new one.

Kyle commented as a side note, the irrigation system does run into the red every year, he has talked to different city managers and they all have this issue.

Public Safety- Chief Ben Lee

The department assisted Hurricane today in apprehending a person of interest in the attempted abduction at Hurricane High School this morning.

Officers Wolsleger and Crouse were able to assist with the house fire by evacuating homes and controlling traffic.

He showed a news clip of the high-speed chase and apprehension of a fugitive Officer Wolsleger was involved in. The body cameras are a great tool for these types of situations. Chief Lee received several phone calls from other agencies complimenting Officer Wolsleger and the job he did.

Chief thanked Judy Abraham for all of the volunteer time she has given to the Department over the last three months in helping him get more organized. Judy used to work for the Kissimmee, Florida Police Department.

The part time Code Enforcement Officer has resigned, Chief is in the process of filling that position.

Councilman Hooten reported there is a lot of congestion during the school pick up time at the corner of Center Street and State Street. The busses are having trouble getting where they need to be. Cars are also making U-turns there and that causes issues.

Chief will look into it.

Mayor Gubler has heard before, over the last 20 years, La Verkin is the “drug area” of Washington County. In the last 8 months he has had several different people, none of which knew he was the Mayor, compliment the community and police department about how much nicer the City looks. He thanked Chief Lee for all of the work his department has been doing.

Director of Operations-Derek Imlay

Derek passed out a graph of the Virgin River Turbidity. This is taken from above the diversion dam and graphs the dirtiness of the water. Today the mark is just under 500 fnu’s; it needs to be around 90 for the filter system to work best. He will continue to watch this graph along with the Districts, to determine when it is okay to put the irrigation water in the system.

The second sheet shows information on the last storm we received, such as the snow water equivalent and the precipitation accumulation percentage.

There was a utility meeting for the Washington County School District Main Street Extension Project.

There are still a few items that need to be addressed before it comes to the City Council.

The last few items for Sunset View Estates should be taken care of between the two engineers and then it will come to the City Council.

Derek’s crew has been putting a roof on the dog run at the animal shelter.

Browning- The police department has been getting a lot of publicity lately. They have handled everything very professionally and it has reflected very well on the City. She thanked Chief and his officers for that.

*Hirschi-*Nothing further to report.

*Hooten-*Nothing to report.

Reeve-Rich Murset is in charge of Founders Day this year and has the tentative schedule complete. Councilman Reeve read that schedule.

Solid Waste held a special meeting to vote on the contractor so they could start negotiations. Dixie Waste is whom they will be working with. The District also wanted to know which of the three options La Verkin was most interested in. Councilman Reeve reported as of right now, the opt-out program. That is still affordable for most people and gives people a choice. Most of the other cities chose either the opt-out option or the mandatory.

Mayor Gubler mentioned with the recycle program citizens are going to have to pay either way so he feels the least expensive option should be the way to go.

G. Adjourn:

Motion was made by Councilman Ken Hooten to adjourn, second by Councilwoman Chantelle Browning. Browning-yes, Hirschi-yes, Hooten-yes, Reeve-yes. Motion carried unanimously at 7:48pm.

Minutes were taken on behalf of the City Recorder by Christy Ballard.

April 1, 2015
Date Approved

ATTEST:

Kyle Gubler
Kyle Gubler
City Recorder

Kerry T. Gubler
Mayor Kerry T. Gubler

OPMA

"Open and Public Meetings Act"



Training – March 4, 2015

Openness



1. Deliberations



2. Actions



"Public Body"

Any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- Is **created** by the Utah Constitution, statute, rule, ordinance, or resolution;
- Consists of **two or more persons**;
- **Expends, disburses, or is supported** in whole or in part by **tax revenue**; and
- Is **vested with the authority to make decisions** regarding the public's business.



But not a: (i) political party, political group, or political caucus; or (ii) conference committee, rules committee, or sifting committee of the Legislature.

Convened Meetings

• Applies to:

– Meetings

- **Convened**
- **By a public body**
- **With a quorum present**



Two Overriding Concepts



Openness



Due Process

Due Process

1. Procedural DP

[Reasonable Notice  and Adequate Opportunity to be Heard] 

2. Substantive DP

[Fairness – Reasonableness]



Best: AVOID PROBLEMS!

- Err on the side of **public openness** ("**transparency**").
- When in doubt, the meeting should be **open**.
- Don't attempt to violate even the **spirit** of the Act.
- Act so as to **protect** and **facilitate** the **due process rights** (notice and opportunity to be heard) and the **OPMA public policies**
 - Take actions **openly**
 - Conduct deliberations **openly**



"Government Records Access and Management and Act"

GRAMA

Utah's FOIA and Privacy Act – Utah's "Sunshine Laws"

Training – March 4, 2015

Two Constitutional Rights

1. Right of access

2. Right of privacy

Recognition of:

- 2 Constitutional Rights – relating to the public



- Public Policy Interest in allowing a government to restrict access to certain records "for the public good"

Legislative Intent

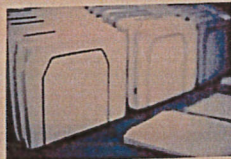


- promote easy and reasonable access
- specifying when **restrictions on access may outweigh** the public's interest in access
- **prevent abuse of confidentiality** by governmental entities
- provide for equitable weighing
- favor public access
- establish fair and reasonable management practices

In summary:

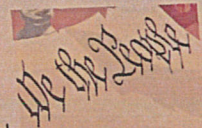
Classifications of Records

- Those which **MUST be disclosed** (§ 63G-2-301)
- **Private** records
(§§ 63G-2-302 and 63G-2-303)
- **Controlled** records (§ 63G-2-304)
- **Protected** records (§ 63G-2-305)



• Keep in mind:

- Public policy behind the Act
- Intent of the Legislature
- **Who we work for:** the public!
- Very similar considerations as those regarding OPMA
- We'll be okay, and the public and relevant private interests will be properly served!



"Let the Sunshine In!"

OPMA &
GRAMA



OPMA Training URL (David Church, OPMA Training, ULCT Convention, Sep 2014, 39:08 mins. in length):

https://www.youtube.com/watch?v=D9Xp6AQkcdo&feature=player_detailpage



Kevin Bennett

Open and Public Meetings 2014



ulctTube

<http://youtu.be/D9Xp6AQkcdo>

Published on Sep 19, 2014

ULCT Attorney David Church gives a candid explanation of the legal standards for elected officials in Utah when conducting public meetings and explains when executive sessions are appropriate.



Kevin Bennett

Excellent, valuable, up-to-date presentation, presented in an informative yet entertaining manner (as is typical of David). Worth my time, and something I'd like our City officials to view.



ulctTube
5 months ago

Elected officials: Update your knowledge about public meeting requirements.

Update to :

OPMA

“Open and Public Meetings Act”



Training – March 5, 2014

Two Overriding Concepts

Openness



Due Process

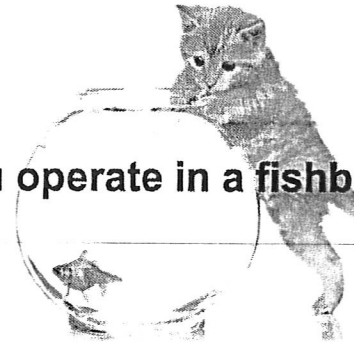
Openness

1. Deliberations



2. Actions

You operate in a fishbowl!



Due Process

1. Reasonable Notice



2. Adequate Opportunity to be Heard



Due Process

Reasonableness



Fairness

Two Types of People

- **LETTER** of the Law People



- **SPIRIT** of the Law People

Spirit of the Law

- Teach them **correct principles**; let them **govern themselves**.

- Understand:

1. Constitutional basis
2. Legislative policies behind the law



Constitutional Basis

- Reasonable notice
- Adequate opportunity to be heard
- Fairness
- Reasonableness



Legislative Policies - OPMA

- Conduct deliberations openly
- Take actions openly



OPENNESS

Letter of the Law

- Prepare to be "schooled" in the details!
- Law is not that onerous; but it needs to be followed.



- See **Chap. 4, Title 52, Utah Code Annotated (UCA)**

OPMA

- Policies furthered
- Constitutional provision furthered

OPMA – Applies to Whom?

- City Council
- Planning Commission
- Land Use Authority (Board of Adjustment)
- Commissions
- Committees
- Particularly if:
 - Officially set up by ordinance or resolution



“Public Body”

Any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- Is created by the Utah Constitution, statute, rule, ordinance, or resolution;
- Consists of two or more persons;
- Expends, disburses, or is supported in whole or in part by tax revenue; and
- Is vested with the authority to make decisions regarding the public's business.



But not a: (i) political party, political group, or political caucus; or (ii) conference committee, rules committee, or sitting committee of the Legislature

Convened Meetings

- Applies to:
 - Meetings
 - Convened
 - By a public body
 - With a quorum present



What is a Quorum?

- A **simple majority** of the membership of a public body, unless otherwise defined by law (3 Council members, *not* including the Mayor; see Sec. 10-3-504, UCA)
- But not a meeting of two elected officials by themselves when no action (formal or informal) is taken on a subject over which these elected officials have advisory power

What is **REQUIRED**?

- Certain minimal notices
- Tape recording
- Minutes
- Special rules for electronic meetings



CLOSED MEETINGS

- Meetings are generally **PUBLIC!**
- **Very limited circumstances** where they may be closed to the public (*only those reasons set forth in the statute*).



Exceptions that *may* apply:

- **discussion:**
 - of the character, professional competence, or physical or mental health of an individual [NOT “personnel” matters]
 - regarding deployment of security personnel, devices, or systems
- **strategy sessions to discuss:**
 - pending or reasonably imminent litigation
 - the purchase, exchange, or lease of real property (including water rights/shares) if . . .
 - the sale of real property if . . .
- **investigative proceedings** regarding allegations of criminal misconduct

When **MUST** a meeting be closed to the public?

NEVER!



But . . . there certainly are cases where wisdom may dictate that you do.

But if you do close it, you must . . .

- Have a **legally supportable** reason/purpose (Sec. 52-4-205, UCA)
- Stay within that reason/purpose
- Follow requirements of Sec. 52-4-206, UCA, re –
 - Recordings
 - Minutes
 - Any required sworn statements



Civil and Criminal Sanctions

Civil Sanctions

- Suit to Void Final Action Taken
- Suit to Compel Compliance with OPMA

Leading to possible:

- + Voiding of action
- + Court orders
- + Awards for attorney's fees and court costs



Civil and Criminal Sanctions

Criminal Sanctions

Class B Misdemeanor, if –

A public body **knowingly or intentionally:**

- **Violates**, or
- **Abets or advises a violation of any of the CLOSED MEETING provisions of OPMA**



Best: **AVOID PROBLEMS!**

- Err on the side of **public openness** (“transparency”).
- When in doubt, the meeting should be **open**.
- Don't attempt to violate even the spirit of the Act.
- Act so as to **protect and facilitate the due process rights** (notice and opportunity to be heard) and the **OPMA public policies**
 - Take actions **openly**
 - Conduct deliberations **openly**



"Government Records Access and Management and Act"

GRAMA

Utah's FOIA and Privacy Act – Utah's "Sunshine Laws"

Training – March 5, 2014

Recognition of:

- 2 Constitutional Rights – relating to the public



- Public Policy Interest in allowing a government to restrict access to certain records "for the public good"

Two Constitutional Rights

1. Public's **right of access** to information concerning the conduct of the public's business
2. The **right of privacy** in relation to personal data gathered by governmental entities

Legislative Intent



- promote the public's right of **easy and reasonable access** to unrestricted public records;
- specify those conditions under which the public interest in allowing **restrictions on access to records may outweigh** the public's interest in access;
- **prevent abuse of confidentiality** by governmental entities by permitting confidential treatment of records only as provided in this chapter;

Legislative Intent

- provide guidelines for both disclosure and restrictions on access to government records, which are based on the **equitable weighing** of the pertinent interests and which are consistent with nationwide standards of information practices;
- **favor public access** when, in the application of this act, countervailing interests are of equal weight; and
- establish **fair and reasonable** records management practices.



What is a "Record"?

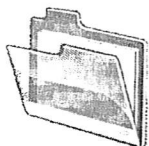
It is:

- a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other **documentary material** regardless of physical form or characteristics:
 - that is prepared, owned, received, or retained by a governmental entity or political subdivision; and
 - where all of the information in the original is **reproducible** by photocopy or other mechanical or electronic means

It does not include:

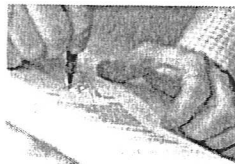
- a **personal note or personal communication** prepared or received by an employee or officer of a governmental entity:
 - in a capacity other than the employee's or officer's governmental capacity; or
 - that is unrelated to the conduct of the public's business;
- a **temporary draft or similar material** prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

What is a "Record"?



- material that is legally owned by an individual in the individual's private capacity;
- material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;
- proprietary software;
- junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

What is a "Record"?



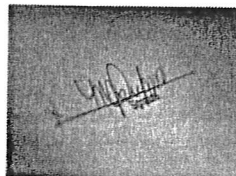
- a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;
- material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;
- a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

What is a "Record"?



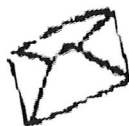
- a computer program that is developed or purchased by or for any governmental entity for its own use;
- a note or internal memorandum prepared as part of the deliberative process by:
 - a member of the judiciary;
 - an administrative law judge;
 - a member of the Board of Pardons and Parole; or
 - a member of any other body charged by law with performing a quasi-judicial function;

What is a "Record"?



- a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, *provided* that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

What is a "Record"?



- information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii); or
- information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205.

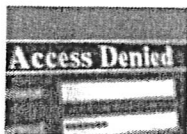
Access to Records

- With certain limitations provided by law, every person has the right:
 - To inspect a **public** record free of charge
 - To take a copy of a **public** record during normal working hours

But what records are **NOT PUBLIC**?

Designated in GRAMA as:

- Private
- Controlled
- Protected



Access is restricted by:

- Court rule
- Another state statute
- Federal statute
- Federal regulation
- Records for which access is governed/restricted as a condition of participation in a state/fed. program or for receiving state/fed. \$\$

Disclosure of record proper when:

- Record is public; or
- Non-public, if:
 - Consensual and no one harmed thereby
 - Supported by balancing of public vs. private interests

Record is provided if:

The person requesting the record:

- has a **right** to inspect it;
- identifies the record with **reasonable specificity**; and
- pays the lawful fees

(if any)



Not required to:

- create a record;
- compile, format, manipulate, package, summarize, or tailor information;
- provide a record in a particular format, medium, or program not currently maintained by the governmental entity;
- fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or
- fill a person's records request if:
 - the record requested is accessible in the identical physical form and content in a public publication or product produced by the governmental entity receiving the request;
 - the governmental entity provides the person requesting the record with the public publication or product; and
 - the governmental entity specifies where the record can be found in the public publication or product.

Classifications of Records

- Those which **MUST** be disclosed (§ 63G-2-301)
- **Private** records (§§ 63G-2-302 and 63G-2-303)
- **Controlled** records (§ 63G-2-304)
- **Protected** records (§ 63G-2-305)



Avenues of Relief:

- Appeals available
 - "in-house"
 - State Records Committee
 - district court)
- Possible Criminal, Civil, and Disciplinary Sanctions, when law not properly followed
 - Class B misdemeanor
 - Injunction
 - Attorney's fees



In summary:

- Keep in mind:
 - Public policy behind the Act
 - Intent of the Legislature
 - Who we work for: the public!
 - Very similar considerations as those regarding OPMA
- We'll be okay, and the public and relevant private interests will be properly served!

We're the People

"Let the Sunshine In!"



